

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
IN RE:**

**EX PARTE APPLICATION OF
FREDERICK J. WARREN FOR AN
ORDER TO OBTAIN DISCOVERY FOR
USE IN FOREIGN PROCEEDINGS
PURSUANT TO 28 U.S.C. § 1782**

Misc. Action No.
5:20-mc-208

**EX PARTE APPLICATION OF FREDERICK J. WARREN PURSUANT TO 28 U.S.C. §
1782 FOR AN ORDER TO TAKE DISCOVERY IN AID OF A FOREIGN PROCEEDING**

Pursuant to 28 U.S.C. § 1782 (“Section 1782”) and based on the accompanying Memorandum of Law and Declaration of David M. Orta (the “Orta Declaration”), Frederick J. Warren (the “Applicant”) submits this application for discovery, seeking an order permitting the Applicant to issue six subpoenas in the forms attached as Exhibits A to F to the Memorandum of Law directing AMA Capital Partners, LLC, Fintech Advisory, Inc. and Wilk Auslander LLP (together, the “Discovery Targets”) to produce documents and provide deposition testimony for use in an international investment treaty arbitration.

The arbitration is one that the Applicant, along with 27 other U.S. shareholders (the “U.S. Shareholders”) of Integradora de Servicios Petroleros Oro Negro, S.A.P.I. de C.V. (“Integradora,” and with its subsidiaries, “Oro Negro”), a Mexican oil-service company, initiated in June 2018 under the North American Free Trade Agreement (“NAFTA”) against the United Mexican States for destroying the value of their investment in Oro Negro in violation of its NAFTA obligations (the “NAFTA Arbitration”). Mem. of Law at p. 1.

Section 1782 provides for discovery in the United States to assist parties in proceedings before foreign or international tribunals. In relevant part, Section 1782 states:

The district court of the district in which a person resides or is found may order him to give his testimony or statement or to produce a document or other thing for use in a proceeding in a foreign or international tribunal, including criminal investigations conducted before formal accusation. The order may be made . . . upon the application of any interested person and may direct that the testimony or statement be given, or the document or other thing be produced, before a person appointed by the court.

The statutory requirements of Section 1782 are satisfied in this case. As explained in the accompanying Memorandum of Law, (1) the Discovery Targets “reside or are found” in this District; (2) the discovery sought is “for use in” the NAFTA Arbitration, an international arbitration; and (3) the Applicant is an “interested person” in the NAFTA Arbitration—he is one of the claimants. Mem. of Law at pp. 21-23. Also as explained in the Memorandum of Law, the discretionary factors that a court may consider when evaluating a Section 1782 application also weigh strongly in favor of granting this Application. *Id.* at pp. 23-28; *see Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 264-66 (2004).

For the reasons set forth above, and in the accompanying Memorandum of Law, the Applicant respectfully moves the Court to issue an order granting this application and authorizing the issuance of six subpoenas in the form attached to the Memorandum of Law as **Exhibits A to F**.

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Dated: May 11, 2020

Washington, D.C.

Respectfully submitted,

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